



Docket No.: 066666-0024

## DECLARATION AND POWER OF ATTORNEY

As a below named inventor, I hereby declare that:

My residence, mailing address and citizenship are as stated below next to my name,

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter claimed and for which a patent is sought on the invention entitled METHODS FOR PURIFICATION OF CELLS BASED ON PRODUCT SECRETION, the specification of which

- ☐ is attached hereto.  
☒ was filed on March 15, 2004 as United States Application Number 10/801,931, or PCT International Application Number and was amended on March 15, 2004 (if applicable),  
or  
☐ is a Continuation-In-Part (CIP) of Application Number , filed

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is known to me to be material to patentability in accordance with Title 37, Code of Federal Regulations, Section 1.56 including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

I hereby claim foreign priority benefits under 35, United States Code, Section 119(a)-(d) or (f), or 365(b) of any foreign application(s) for patent or inventor's or plant breeder's right certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below any foreign application for patent or inventor's, or plant breeder's rights certificate, or any PCT international application having a filing date before that of the application on which priority is claimed:

### **Prior Foreign Applications(s):**

Number	Country	Day/Month/Year filed	Priority Claimed
			<input type="checkbox"/>
			<input type="checkbox"/>

I hereby claim the benefit under 35 United States Code, Section 119(e) of any United States provisional application(s) listed below.

**Prior Provisional Application(s):**

Application Number

Filing Date

I hereby claim the benefit under 35, United States Code, Section 120 of any United States application(s) or 365(c) of any PCT international application designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT international application in the manner provided by the first paragraph of 35, United States Code, Section 112. I acknowledge the duty to disclose information which is material to patentability as defined in 37, Code of Federal Regulations, Section 1.56 which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

**Prior U.S. Application(s):**

Serial No.

Filing Date

Status:

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

**POWER OF ATTORNEY:**

As a named inventor, I hereby appoint the registered practitioners of McDermott Will & Emery LLP, included in the Customer Number provided below, with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith.

**CUSTOMER NUMBER 41552**

Send correspondence to the address associated with Customer Number 41552

McDERMOTT WILL & EMERY LLP  
4370 La Jolla Village Drive, Suite 700  
San Diego, CA 92122

Direct Telephone Calls to: Telephone 858.535.9001

Full name of inventor (1 of 4): Manfred R. Koller

Inventor's signature: *Manfred R. Koller*

Date: 8/3/04

Residence: San Diego, CA

Citizenship: USA

Post Office Address: 18565 Aceituno Street,  
San Diego, CA 92128

Full name of inventor (2 of 4): Elie G. Hanania

Inventor's signature: *Elie Hanania*

Date: 8/3/04

Residence: San Diego, CA

Citizenship: USA

Post Office Address: 71310 Shoreline Drive # 1307  
San Diego, CA 92122

Full name of inventor (3 of 4): Annabeth Fieck

Inventor's signature: *Annabeth Fieck*

Date: 8/3/04

Residence: United States

Citizenship: United States

Post Office Address: 5552 GENESEE C+ E #134 SD CA 92111

Full name of inventor (4 of 4): Timothy M. Eisfeld

Inventor's signature: *Timothy M. Eisfeld*

Date: 8-3-04

Residence: San Diego, CA

Citizenship: USA

Post Office Address: 11161 Ice Skate Place  
San Diego, CA 92126

Docket No.: 066666-0024



**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of	:	Customer Number: 41552
Koller, et al.	:	Confirmation Number: 2332
Serial No.: 10/801,931	:	Group Art Unit: N/A
Filed: March 15, 2004	:	Examiner: N/A
For: METHODS FOR PURIFICATION OF CELLS BASED ON PRODUCT SECRETION	:	

**POWER OF ATTORNEY FOR PATENT APPLICATION BY ASSIGNEE**

Assignee Oncosis, Inc., a California corporation, is the owner of the entire right, title and interest of the above-identified application, and any subsequently filed divisional, continuation, or reissue application, including international and foreign applications claiming priority thereto.

The undersigned Assignee hereby appoints the following attorney(s) and/or agent(s):  
Debbie L. Cadena, Reg. No. 44048; Cathryn A. Campbell, Reg. No. 31815; Andrea L. Gashler, Reg. No. 41029; David A. Gay, Reg. No. 39200; Matt V. Grumbling, Reg. No. 44427; Astrid R. Spain, Reg. No. 47956 all of

**McDERMOTT WILL & EMERY LLP  
4370 La Jolla Village Drive, Suite 700  
San Diego, CA 92122**

Direct Telephone Calls to: Telephone 858.535.9001

with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith, and all future correspondence should be addressed to them.

Serial No.: 10/801,931

The undersigned is authorized to sign on behalf of the Assignee.

Signature: Manfred Koller

Name (typed): MANFRED KOLLER

Title: PRESIDENT & CTO

Assignee: ONCOSIS

Date: 8/2/04

SDO 14200-1.066666.0024

### STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: Manfred R. Koller, Elie G. Hanania, Annabeth Fieck and Timothy M. Eisfeld

Application No./Patent No.: 10/801931

Filed/Issue Date: March 15, 2004

Entitled: METHODS FOR PURIFICATION OF CELLS BASED ON PRODUCT SECRETION



ONCOSIS,  
(Name of Assignee)

a California, corporation,  
(Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest; or
2. ☐ an assignee of an undivided part interest

in the patent application/patent identified above by virtue of either:

- A. ☒ An assignment from the inventor(s) of the patent application/patent above. The assignment was recorded in the Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.

OR

- B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

1. From: \_\_\_\_\_ To: \_\_\_\_\_

The document was recorded in the Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.

2. From: \_\_\_\_\_ To: \_\_\_\_\_

The document was recorded in the Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.

3. From: \_\_\_\_\_ To: \_\_\_\_\_

The document was recorded in the Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

- ☐ Copies of assignments or other documents in the chain of title are attached.

[NOTE: A separate copy (i.e., the original assignment document or a true copy of the original document) must be submitted to Assignment Division in accordance with 37 CFT Part 3, if the assignment is to be recorded in the records of the PTO. See MPEP 302-302.8]

The undersigned (whose title is supplied below) is empowered to sign this statement on behalf of the assignee.

8/3/04  
Date

Manfred Koller  
Signature

MANFRED KOLLER  
Typed or printed name

PRESIDENT & CEO  
Title

**ASSIGNMENT**

WHEREAS WE, Manfred R. Koller, Elie G. Hanania, Annabeth Fieck and Timothy M. Einfeld of Oncosis, Inc., respectively, have made a certain new and useful invention as set forth in an application for United States Letters Patent, entitled METHODS FOR PURIFICATION OF CELLS BASED ON PRODUCT SECRETION, for which an application for United States Letters Patent was filed on March 15, 2004, and identified by United States Serial No. 10/801,931;

AND WHEREAS, Oncosis, a corporation of the State of California and having an address of 6199 Cornerstone Court, Suite 111, San Diego, California 92121 is desirous of acquiring the entire right, title and interest in and to said invention and in and to any and all Letters Patent of the United States and foreign countries which may be obtained therefor;

NOW, THEREFORE, for good and valuable consideration, the receipt for and sufficiency of which is hereby acknowledged, We do hereby sell, assign, transfer and set over unto Oncosis, Inc., its legal representatives, successors, and assigns, the entire right, title and interest in and to said invention as set forth in the above-mentioned application, including the right of priority and including any continuations, continuations-in-part, divisions, reissues, re-examinations or extensions thereof, and in and to any and all patents of the United States and foreign countries which may be issued for said invention;

UPON SAID CONSIDERATIONS, We hereby agree with the said assignee that We will not execute any writing or do any act whatsoever conflicting with these presents, and that We will, at any time upon request, without further or additional consideration but at the expense of said assignee, execute such additional assignments and other writings and do such additional acts as said assignee may deem necessary or desirable to perfect the assignee's enjoyment of this grant, and render all necessary assistance in making application for and obtaining original, divisional, continuations, continuations-in-part, reexamined, reissued, or extended Letters Patent of the United States or of any and all foreign countries on said invention, and in enforcing any rights or choses in action accruing as a result of such applications or patents, by giving testimony in any proceedings or transactions involving such applications or patents, and by executing preliminary statements and other affidavits, it being understood that the foregoing covenant and agreement shall bind, and inure to the benefit of the assigns and legal representatives of assignor and assignee;

AND We request the Commissioner for Patents and Trademarks to issue any Letters Patent of the United States which may be issued for said invention to said Oncosis, Inc., a California corporation, its legal representatives, successors or assigns, as the sole owner of the entire right, title and interest in and to said patent and the invention covered thereby.

8/3/04  
Date  
8/3/2004  
Date  
8/3/2004  
Date  
8/3/2004  
Date

Manfred R. Koller  
Manfred R. Koller  
Elie G. Hanania  
Elie G. Hanania  
Annabeth Fieck  
Annabeth Fieck  
Timothy M. Eisfeld  
Timothy M. Eisfeld

STATE OF CALIFORNIA )  
 ) SS:  
COUNTY OF SAN DIEGO )

On this 3<sup>rd</sup> day of AUGUST, 2004, before me personally appeared Manfred R. Koller, to me known to be the person named in and who executed the above instrument, and acknowledged to me that he/~~she~~ executed the same for the uses and purposes therein set forth.



Catherine M. Ledbetter  
Notary Public  
My commission expires 06-11-08

STATE OF CALIFORNIA )  
 ) SS:  
COUNTY OF SAN DIEGO )

On this 3<sup>rd</sup> day of AUGUST, 2004, before me personally appeared Elie G. Hanania, to me known to be the person named in and who executed the above instrument, and acknowledged to me that he/~~she~~ executed the same for the uses and purposes therein set forth.



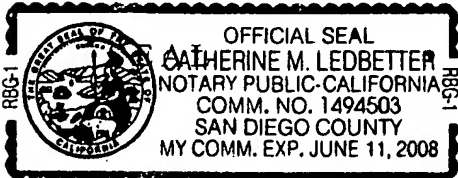
SEAL

Catherine M. Ledbetter  
Notary Public  
My commission expires 06-11-08



STATE OF CALIFORNIA )  
 ) SS:  
COUNTY OF SAN DIEGO )

On this 3<sup>rd</sup> day of AUGUST, 2004, before me personally appeared Annabeth Fieck, to me known to be the person named in and who executed the above instrument, and acknowledged to me that ~~he~~she executed the same for the uses and purposes therein set forth.

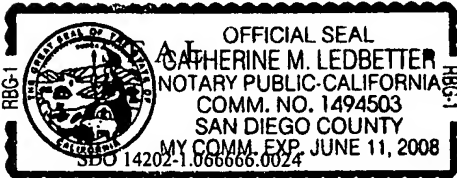


Catherine M. Ledbetter  
Notary Public

My commission expires 06-11-08

STATE OF CALIFORNIA )  
 ) SS:  
COUNTY OF SAN DIEGO )

On this 3<sup>rd</sup> day of AUGUST, 2004, before me personally appeared Timothy M. Eisfeld, to me known to be the person named in and who executed the above instrument, and acknowledged to me that he/~~she~~ executed the same for the uses and purposes therein set forth.



Catherine M. Ledbetter  
Notary Public

My commission expires 06-11-08

Docket No.: 066666-0024



PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of	:	Customer Number: 41552
	:	
KOLLER, et al.	:	Confirmation Number: 2332
	:	
Serial No.: 10/801,931	:	Group Art Unit: N/A
	:	
Filed: March 15, 2004	:	Examiner: N/A
	:	
For:	:	METHODS FOR PURIFICATION OF CELLS BASED ON PRODUCT SECRETION

**SMALL ENTITY STATEMENT**

The U.S. Patent and Trademark (USPTO) permits parties that establish status as a Small Entity to pay certain reduced fees (all citations to 37 C.F.R. § 1.27 except as noted). To be entitled to Small Entity Status, a party must be at least one of the following:

**(1) Individual person:**

An individual person, including an inventor and persons to whom an inventor has transferred some rights in the invention. § 1.27(a)(1).

**(2) Small business concern:**

A business concern whose number of employees, including affiliates, does not exceed 500 persons. § 1.27(a)(2) (incorporating 13 C.F.R. § 121.802).

“Business concern” means individual proprietorship, partnership, limited liability company, corporation, joint venture, association, trust or cooperative. If the concern is a joint venture, participation by foreign business entities may not be more than 49%. 13 C.F.R. § 121.105.

The “number of employees” is the average number of employees, including the employees of its domestic and foreign affiliates, based on numbers of employees for each of the pay periods for the preceding completed 12 calendar months. “Employees” includes all individuals employed on a full-time, part-time, temporary, or other basis. Part-time and temporary employees are counted the same as full-time employees. If a concern has not been in business for 12 months, use the average number

of employees for each of the pay periods it has been in business. 13  
C.F.R. § 121.106.

Concerns are “affiliates” of each other when one concern directly or indirectly controls or has the power to control the other, or when a third party or parties controls or has the power to control both concerns. 13  
C.F.R. § 121.103(a).

**(3) Nonprofit organization:**

A university or other institution of higher education located in any country. § 1.27(a)(3)(ii)(A).

An organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a). Also included are such organizations located in a foreign country that would qualify if it were located in this country. § 1.27(a)(3)(ii)(B),(D).

A nonprofit scientific or educational organization qualified under a nonprofit organization statute of a U.S. state. Also included are such organizations located in a foreign country that would qualify if it were located in this country. § 1.27(a)(3)(ii)(C),(D).

Please note that a license to the Government resulting from a rights determination under Executive Order 10096 does not constitute a license that would prohibit claiming Small Entity Status. Similarly, for small business concerns and nonprofit organizations, a license to a Federal agency resulting from a funding agreement with that agency under 35 U.S.C. § 202(c)(4) is not a license that would prohibit claiming Small Entity Status. § 1.27(a)(4).

I hereby assert that I am empowered to sign on behalf of the party identified below (“Party”). Persons empowered to sign include, but are not limited to, an inventor him- or herself or an authorized officer of an assignee or licensee. *See* § 1.27(c)(2).

I have made a determination of the Party’s entitlement to Small Entity Status, including a determination that all parties holding rights in the invention qualify for Small Entity Status. § 1.27(f).

I hereby assert that the Party has not assigned, granted, conveyed or licensed--and is under no obligation under contract or law to do so--any rights in the invention to any other party that would not qualify as a Small Entity.

I hereby assert that the Party is entitled to be accorded Small Entity Status by the USPTO for the application or patent identified above. § 1.27(c)(1).

I understand that Small Entity Status must be newly determined when the issue fee and each maintenance fee is due. If there is any change resulting in loss of entitlement to Small Entity Status, I acknowledge the duty to file a notification to the USPTO in this application or patent before or upon paying the fee. § 1.27(g).

I understand that Small Entity Status must be separately established in any related application, including continuation, divisional, continuation-in-part, continued prosecution application or reissue application. § 1.27(c)(4).

I understand that any attempt to establish Small Entity Status improperly, deceptively or fraudulently will be considered a fraud practiced on the USPTO and may result in abandonment of the application or jeopardize the validity and enforceability of any resulting patent. § 1.27(h).

8/3/04  
Date

Name: Wm. Kuehl  
Title: PRESIDENT & CTO

ONCOSIS  
6100 Cornerstone Court, Suite 111  
San Diego, CA 92121